

REMARKS

The application includes claims 1-20 and 22-31 prior to entering this amendment.

The Applicant amends claims 1, 2, 4-12, 14-20, 22, and 24-31, and cancels claims 3, 13, and 23 without prejudice.

Claim 21 was previously cancelled.

The Applicant adds new claims 32-35. No new matter is added.

The application remains with claims 1; 2, 4-12, 14-20, 22, and 24-35 after entering this amendment.

Allowable Subject Matter

The Examiner objected to claims 7 and 8 as being dependent upon a rejected base claim, but indicated that they would be allowable if rewritten in independent form. Applicant thanks the Examiner for the indication of allowable subject matter and the proposed amendment.

While Applicant agrees with the Examiner that these claims are allowable, Applicant respectfully declines to amend claims 7 and 8 on the basis that the independent 1, upon which they depend, is itself allowable.

Claim Rejections - 35 U.S.C. § 101

The Examiner rejected claims 11-20 and 22-31 under 35 U.S.C. § 101.

Without admitting the propriety of the rejection, Applicant amends claims 11, 12, 14-20, 22, and 24-31, and cancels claims 13 and 23 to expedite prosecution, and without prejudice with regard to pursuing the claims as previously presented or in other forms in a continuation or other application.

In rejecting claim 11, the Examiner stated that “All of the claim limitations are directed towards method steps that are carried out in software (page 4, final paragraph of the Office Action). Claim 11 is amended to recite *a storage device and one or more files stored on the storage device*. According to the Federal Circuit decision In re Nuijten, 500 F.3d 1346 (Fed. Cir. Sept. 20 2007) which noted the reversal of the Examiner's § 101 rejection of a claim comprising a storage medium which “nominally puts the claim into the statutory category of ‘manufacture’.” Applicant respectfully submits that the patentable features recited by amended claim 11 are supported by statutory basis, and

furthermore are consistent with the USPTO's own Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility.

The Examiner rejected claim 31 on the basis that the recited computer readable instructions are not "embodied in a computer-readable medium" (page 3, final paragraph). Applicant amends claim 31 to recite, in part *a tangible computer readable medium having stored therein computer readable instructions*. Accordingly, the rejection is believed to be moot.

Applicant respectfully requests withdrawal of the rejection of claims 11, 12, 14-20, 22, and 24-31.

Claim Rejections - 35 U.S.C. § 102

The Examiner rejected claims 1-2, 6, 9-12, 16, 19-20, 22, 26, and 29-31 under 35 U.S.C. § 102(e) over Cowie, et al. (U.S. Patent Application Publication No. 2003/0023865).

The rejection is traversed; however, Applicant amends claims 1-2, 6, 9-12, 16, 19-20, 22, 26, and 29-31 to expedite prosecution, and without prejudice with regard to pursuing the claims as previously presented or in other forms in a continuation or other application. Amended claim 1 recites a method, comprising:

- obtaining a signature by reading code comprising a partial section of a steganographic program, wherein the steganographic program is configured to introduce steganographic items into a computer file;
- comparing the signature with one or more computer files; and
- displaying a listing of which of the one or more computer files provide a match with the signature.

Cowie is directed to detecting computer programs such as Trojans and worms using fingerprints derived from unpacked resource data in the packed computer files which are being searched (Abstract). A library of such fingerprints are generated from known Trojans and worms which are compared with the fingerprint for the packed file (paragraph 0048).

Applicant first remarks that the Trojans and worms of Cowie fail to disclose either the steganographic program or the steganographic items recited by claim 1. Furthermore, Applicant respectfully submits that Cowie fails to disclose *obtaining a signature by reading code comprising a partial section of a steganographic program*, as

recited by claim 1. According to Cowie, fingerprint data indicative of predetermined characteristics of resource data are used to compare the suspect file with the library of Trojans and worms (paragraph 0012). The actual code of the suspect file is not used as a signature, rather Cowie's fingerprint is comprised of data indicia such as the data check sum or time stamp (paragraphs 0015-0018).

Additionally, Cowie teaches away from reading any code by describing that in order to read the actual code of the packed files, one would have to decompress the files (paragraphs 0005). Cowie discloses that his data indicia may be identified without decompressing the files and therefore, it follows that that data indicia is determined without reading any code (paragraph 00012).

Claims 11 and 31 are believed to be allowable for at least some of the reasons provided above with respect to claim 1. As claims 2, 6, 9, 10, 12, 16, 19-20, 22, 26, 29, and 30 depend from claim 1, 11, or 31, they are believed to be patentable over the art for at least the foregoing reasons, as well as for the further novel features recited respectively therein. Accordingly, withdrawal of the rejection of claims 1-2, 6, 9-12, 16, 19-20, 22, 26, and 29-31 is respectfully requested.

Claim Rejections - 35 U.S.C. § 103

The Examiner rejected claims 3-5, 13-15, and 23-25 under 35 U.S.C. § 103(a) over Cowie and Pierre Richer (Sans/GIAC Practical Assignment for GSEC Certification Version 1.4b).

In rejecting original claim 3, now cancelled, the Examiner acknowledged that Cowie fails to disclose steganographic items, and instead suggested that Richer discloses these features.

Richer is directed to an overview of steganalysis and of several software applications available to perform a forensic analysis. Specifically, at pages 4 and 5, Richer provides a listing of the various methods of performing steganalysis. Richer fails to disclose any specific or detailed description of how these methods operate. Evaluation of the conventional systems are described as matching a hash value of suspected files (page 6) or compressibility of the files (page 8) to identify some difference between an original file and an original file which has been modified with steganographic items. Each of these methods look to data indicia, similar to Cowie, to identify when an original

file has been modified. Accordingly, Richer fails to cure the deficiencies previously identified for Cowie.

As claims 4, 5, 14, 15, 24, and 25 depend from claim 1, 11, or 31, they are believed to be patentable over the art for at least the foregoing reasons, as well as for the further novel features recited respectively therein. Accordingly, withdrawal of the rejection of claims 4, 5, 14, 15, 24, and 25 is respectfully requested.

New Claims

The Applicant adds new claims 32-35 for consideration. No new matter is added.

Any statements made by Examiner that are not addressed by Applicant do not necessarily constitute agreement by the Applicant. In some cases, Applicant may have amended or argued the allowability of independent claims thereby obviating grounds for rejection of the dependent claims.

Conclusion

For the foregoing reasons, the Applicant respectfully requests reconsideration and allowance of all pending claims. The Examiner is encouraged to telephone the undersigned if it appears that an interview would be helpful in advancing the case.

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Respectfully submitted,

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